

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

RUOEY LUNG ENTERPRISE CORP.,

Plaintiff,

v.

TEMPUR-PEDIC, INTERNATIONAL  
INC.; TEMPUR-PEDIC SALES, INC.;  
TEMPUR-PEDIC NORTH AMERICA  
LLC; OPTIMA HEALTHCARE, INC.; and  
APEX HEALTH CARE  
MANUFACTURING, INC.,

Defendants.

**Civil Action No. 09-CV-11550-GAO**

ASCION, LLC AND  
MARTIN RAWLS-MEEHAN

Plaintiffs,

v.

RUOEY LUNG ENTERPRISE CORP.  
AND LUNG-TAN SHIH

Defendants.

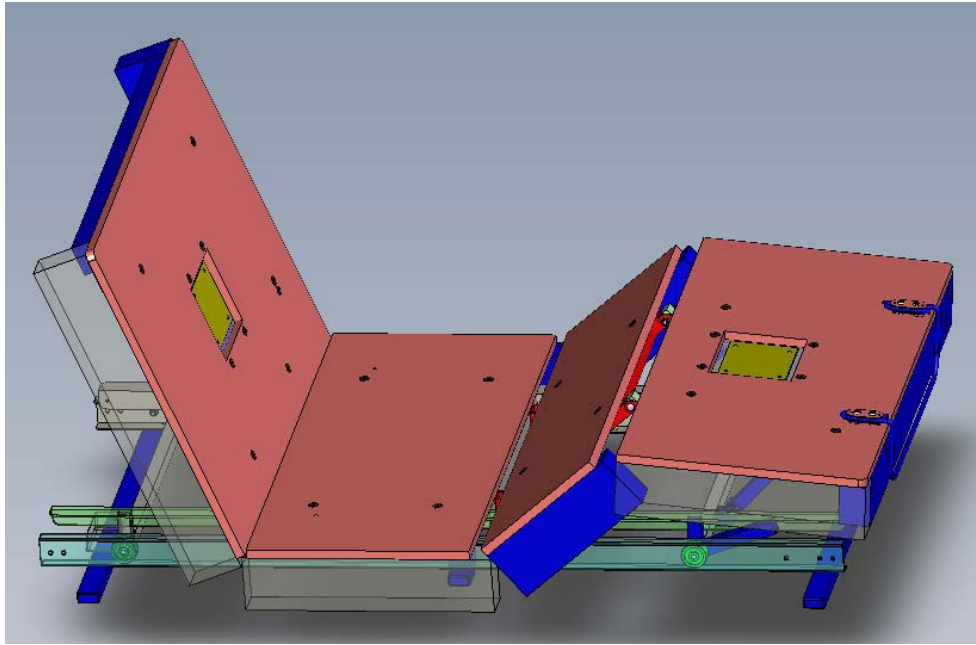
Civil Action No. 09-CV-10293-WGY  
Consolidated with the above action

**DECLARATION OF MARTIN RAWLS-MEEHAN IN SUPPORT OF  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I, Martin Rawls-Meehan, declare:

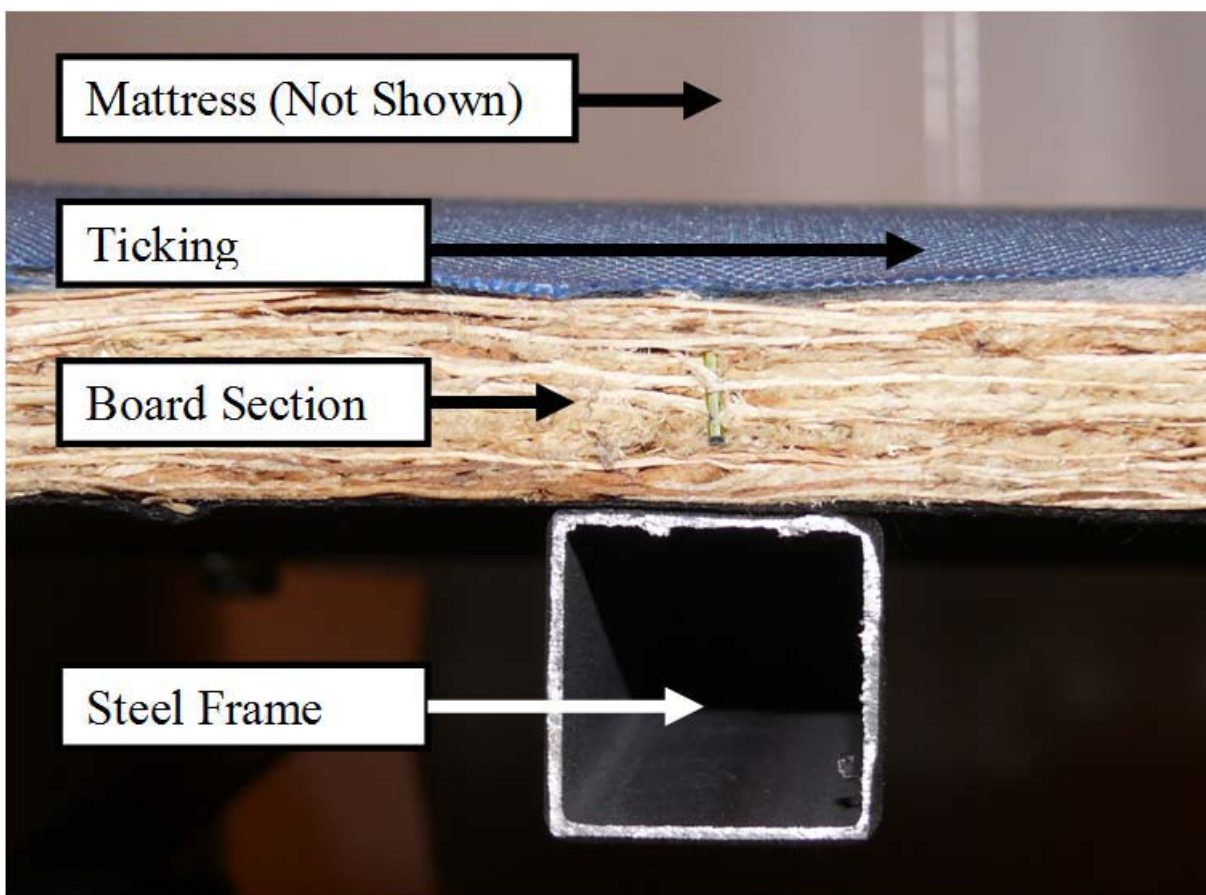
1. I am a managing member of Ascion, LLC ("Ascion"), Inc. I have personal knowledge of the facts set forth below.
2. I am aware that RuoeY Lung accuses three adjustable beds of infringement: the Reverie Deluxe Adjustable Bed, the Reverie Comfort Adjustable Bed, and the Advanced Ergo System Full Motion Bed ("the accused beds").

3. Each accused bed uses a design having an underlying steel frame.
4. As depicted in the image below, Attached to this steel frame are four pieces of decking: the head board, back board, thigh board, and foot board:



(ASCION0000472)

5. The decking is covered with thin protective material or “ticking” on which the mattress ultimately rests.
6. The ticking is used to protect the mattress from direct contact with the rough wood platforms as the bed operates.
7. This layered structure — steel frame, wood platform, ticking, and mattress — is shown in the close-up, cross-section photograph below (without the mattress):



The above is a true and accurate photograph of the typical cross section of one of the accused beds, which has been accurately annotated for illustrative purposes.

8. To give perspective to the photograph, the steel frame shown is approximately 1 inch thick, the wood platform is approximately 5/8 inch thick, the ticking is about 1/8 inch thick, and the mattress, if shown, would be several inches thick, indeed the majority of accused mattresses are approximately 8 or more inches thick.

9. For a period of a few months, the alleged infringers manufactured and sold the accused beds with two stabilizer arms supporting the head portion of the frame (stabilizer arms that Ruoe Lung argues constitute “first links”).

10. On or around March 2009, however, Ascion directed its contract manufacturers, Apex and Optima, to manufacture the accused beds with only one stabilizer arm.

11. Specifically, Ascion called for the removal of a single stabilizer arm on the adjustable bed's right side (from the perspective of someone lying on the cushion).

12. Accordingly, the accused beds currently manufactured and supplied into the market, including to defendant Tempur-Pedic, no longer have two stabilizer arms.

13. Since the time of the '100 patent's issuance in November of 2008, the vast majority of the accused beds Ascion supplied have included only one stabilizer arm. Based on figures from August 2010, approximately only 14% of all beds supplied by Ascion include two stabilizer arms; the remaining 86% included only one stabilizer arm.

14. When an accused bed is operated, the mattress does not "move" with each frame section; instead, it lays across a gap formed by the platforms.



**Advanced Ergo System Full Motion Bed (Head and Feet Raised)**

The above is a true and accurate photograph of an Advanced Ergo System Full Motion Bed with the head and foot sections raised.

15. When just the foot section of the adjustable bed is raised in the image below, there is no contact between the mattress and the underlying foot portion of the adjustable bed at all.



**Advanced Ergo System Full Motion Bed (Only Foot Section Raised)**

The above is a true and accurate photograph of an Advanced Ergo System Full Motion Bed with only the foot section raised.

16. The accused beds use a well-known design where the mattress rests on wood platforms, not the underlying skeletal steel frame.

17. The wood platforms are covered in ticking which prevents splinters or jagged edges of the wood from damaging the mattress during operation.

18. The mattress rests on top of the ticking and never even comes into any contact with the adjustable, skeletal frame sections underneath the wood platforms.

19. Below are images of the accused beds with the mattresses slid off to reveal the blue ticking covering the wood platforms, as inspected by Ruoeey Lung.

		
<b>Reverie Deluxe Adjustable Bed (without mattress) (DSCN0491)</b>	<b>Reverie Comfort Adjustable Bed (without mattress) (DSCN0551)</b>	<b>Advanced Ergo System Full Motion Bed (without mattress) (DSCN0600)</b>

The above are a true and accurate photographs of the identified beds.

20. There is no disassembly, or detachment, required to remove a mattress from an accused beds one can simply just slide it off.

21. The accused mattresses are never glued, tied, stapled, bolted, strapped, sewn, or otherwise attached or affixed to any portion of the underlying adjustable bed base.

22. When an accused bed is in operation, the mattresses can slide (something that could not happen if the mattress was mounted) as seen in the red circle in the picture below:


<b>Reverie Deluxe Adjustable Bed (Only Foot Section Raised)</b>

The above is a true and accurate photograph of a Reverie Deluxe Adjustable bed with only the foot section raised.

I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on December 8, 2010.

  
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Martin Rawls-Meehan

**CERTIFICATE OF SERVICE**

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Michael A. Albert